



**WALKUP, MELODIA, KELLY, WECHT & SCHOENBERGER**

*Law Offices, A Professional Corporation*

August 21, 2006

Joseph C. Spero  
United States Magistrate Judge  
U.S. District Court  
Northern District of California  
450 Golden Gate  
San Francisco, CA 94102

**RE: Passanisi v. Terex, et al.**  
**Action No. C-05-1556 SBA (JCS)**

Dear Judge Spero:

The parties apologize for the delay in submitting the joint letter brief required by your standing order.<sup>1</sup> Counsel for both sides have had busy schedules over the summer, and there have been time lags in the communications between the parties and their counsel due to difficult schedules and in part to the fact that the defendants are located in the Midwest.

Nevertheless, counsel have met-and-conferred once in person and approximately five times telephonically (most recently last week). The parties have narrowed but not completely resolved their disputes. This is a wrongful death/products liability case arising out of a crane accident. Defendants designed and made the crane. The only two remaining issues in dispute for the pending motion are: (1) how broadly or narrowly should plaintiff's "other incidents" discovery requests be defined, and (2) which of the defendants' affiliates, if any, should be included in the discovery responses about other incidents. Some of the resolved issues are dependent on the resolution of the overall dispute, however.

---

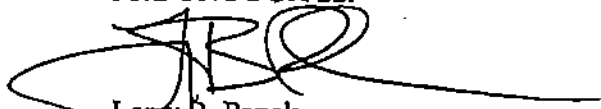
<sup>1</sup> When plaintiff filed this motion, discovery matters were assigned to Magistrate Judge Elizabeth LaPorte. She recused herself from this case after the motion was filed. This explains why plaintiff did not initially comply with your Standing Order.

Joseph C. Spero  
August 21, 2006  
Page 2

Counsel are hopeful that they can continue to work toward a resolution of these disputed issues without the need for your court to hear the motion. The parties respectfully request that the deadline for the joint letter brief be extended an additional two weeks.


Very truly yours,

CARROLL, BURDICK &  
McDONOUGH LLP



Larry B. Panek

WALKUP, MELODIA, KELLY,  
WECHT & SCHOENBERGER



Matthew D. Davis

MDD/lm

IT IS HEREBY ORDERED that the parties shall have until September 5, 2006, to submit their Joint Letter Brief.

Dated: August 22, 2006

